IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

WP(C).No. 1334 of 2007(H)

PETITIONER:

SHAJI, S/O. WILSON,
AGED 33 YEARS, MANAGER, KARAKODE UPPER PRIMARY SCHOOL, KARODE, PARASSALA, TRIVANDRUM.

BY ADV. SRI.V.A.MUHAMMED

RESPONDENTS:

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1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
TRIVANDRUM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY, TRIVANDRUM-14.

3. THE DEPUTY DIRECTOR OF EDUCATION,
THIRUVANANTHAPURAM.

4. THE ASSISTANT EDUCATIONAL OFFICER,
PARASSALA, TRIVANDRUM DISTRICT.

BY GOVERNMENT PLEADER SMT. M.R. SREELATHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)NO.1334 OF 2007

APPENDIX

EXT.P1: COPY OF THE ORDER NO.B1/2202/2004 DDE OF THE DY. DIRECTOR OF EDN.

EXT.P2: COPY OF THE FORWARDING LETTER WITH APPLICATION FOR CHANGE OF MANAGEMENT.

EXT.P3: COPY OF THE LETTER NO.F/2970/05 OF THE ASST. EDL. OFFICER.

EXT.P4: COPY OF THE COVERING LETTER OF THE MANAGER.

EXT.P5: COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P.(C) NO.23421/2006-L.

EXT.P6: COPY OF THE ORDER NO.F/2970/06 OF THE ASST. EDL. OFFICER, PARASSALA.

EXT.P7: COPY OF THE ORDER NO.K.DIS.F1-83744/2005 OF THE 2ND RESPONDENT.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)No. 1334 OF 2007

Dated this the 6th day of November, 2007

JUDGMENT

The petitioner is the son of the owner of the Karacode U.P.School, which is an aided school. The Deputy Director of Education declared the father as disqualified to continue as Manager of the School and consequently the AEO was directed to discharge the normal duties of the Manager till a new Manager was appointed. The father, therefore, appointed the petitioner as the Manager of the School and filed Ext.P2 application for approval of the new Manager. The same was directed to be considered as per Ext.P5 judgment. The AEO, by Ext.P6 order, considered the application under Rule5A and 4(2) of Chapter III of the Kerala Education Rules and approved change of management. The Director of Public Instruction by Ext.P7 order set aside Ext.P6 order on the ground that the formalities prescribed in Rule 5A was not observed by the AEO and the documents necessary for change of management were not produced. The petitioner is challenging Ext.P7 order.

2. I have heard the learned counsel for the petitioner as also the learned Government pleader. I am of opinion that both the AEO and the Director of Public Instruction went wrong in considering Ext.P2 as an application for approval of change of management not involving change of ownership. In fact this is a simple case of approval of the new Manager appointed by the educational agency in which no change of management is involved. In fact Ext.P2 application was only for that. Therefore Exts.P6 and P7 are unsustainable.

3. Accordingly, Ext.P6 and P7 are quashed and the AEO is directed to consider Ext.P2 application as an application for change of Manager and pass appropriate orders thereon within one month from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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